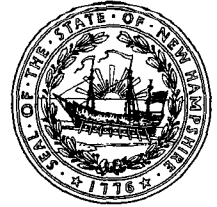




State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-2147 FAX (603) 271-6588



**LETTER OF DEFICIENCY
WET 2005-23**

September 01, 2005

Michael A Tamposi
386 Pine Hill Rd
Hollis, NH 03049

RE: DES Wetlands File #2004-01819 Dutton Rd, Lyndeborough

Dear Mr. Tamposi:

On May 31, 2005, personnel from the Department of Environmental Services ("DES") conducted an inspection of the above referenced property, more specifically referenced on Town of Lyndeborough Tax Map 7 as Lot 46-2 (the "Property"). The purpose of the inspection was to determine compliance with RSA 482-A and NH Code of Admin. Rules Wt 100-800.

During the inspection the following deficiencies were documented:

1. A minimum of seven non-permitted wetland and surface water impact areas were identified on the property as follows:

a. It appears from the property line represented in the field that the permitted stream crossing was built closer the property boundary than originally permitted;

b. A wetlands fill area of approximately 2,000 sq. ft. located on the northwest side of the existing stream crossing and access road from Dutton Road (as identified on the attached map as Impact Area #1);

c. A stone dam measuring approximately 4' high, 8' wide, and 25' long (200 sq. ft.) had been constructed approximately 30 feet upstream of the existing access road/stream crossing (as identified on the attached map as Impact Area #2);

d. A wetlands fill area of approximately 100 linear feet along the east side of the existing access road (identified on the attached map as Impact Area #3);

e. A wetlands fill area of approximately 300 sq. ft. within an intermittent stream and forested wetland with an associated 18" x 30' culvert (identified on the attached map as Impact Area #4);

f. A wetland fill area of approximately 750 sq. ft. located on the northwest side of the access road within an isolated wetland (potential vernal pool habitat) (identified on the attached map as Impact Area #5);

g. A second wetlands fill area of approximately 300 sq. ft. within an intermittent stream and forested wetland, with an associated 18" x 30' culvert (identified on the attached map as Impact Area #6);

h. A wetlands fill area of approximately 600 sq. ft. consisting of the installation of a 16" x 60' culvert and stone catch basin. Additionally, sediment from the impact area had entered the down gradient wetland area (identified on the attached map as Impact Area #7).

2. A road system and land clearing activities were identified on the property which appears to be in excess of 100,000 sq. ft. of contiguous land disturbance. This may require additional permitting through the DES Site Specific Program.

In response, you are requested to take the following actions:

1. Immediately stabilize the site with appropriate erosion, sediment and turbidity controls and monitor the site for weather changes to ensure compliance with BMPs;
2. Voluntarily refrain from continuing work on the Property within Wetlands Bureau jurisdiction;
3. **Within 60 days**, submit a restoration plan to DES for review and approval. Have the restoration plan prepared by a certified wetland scientist or qualified environmental engineer, and include provisions for stabilizing the site, restoring the unpermittable wetlands and surface water impacts on the Property. Submit the following with the restoration plan:

- a. A plan with dimensions, drawn to scale, showing:
 1. Existing conditions, with wetland boundaries (delineated by a certified wetland scientist using appropriate delineation methods);
 2. Proposed conditions after reestablishing the jurisdictional areas; and
 3. An as built plan locating the existing stream crossing permitted under Wetlands File #1987-85 in relation to the adjacent property boundary.
- b. A detailed description of the proposed means of erosion, sediment and turbidity control (silt fence, hay bales, etc) and stabilization of the restoration areas;
- c. A detailed description of the proposed planting plan for the stabilization and revegetation of the restoration area and control of invasive species such as purple loosestrife (*Lythrum salicaria*) and common reed (*Phragmites australis*);
- d. A description of the proposed construction sequence and methods for accomplishing restoration and anticipated restoration compliance date;
- e. A description of the method of documenting at least 75% survival of all vegetation planted during the restoration project. This should include at a minimum of two monitoring progress reports during two successive growing seasons following completion of the restoration project.

4. Retain a qualified wetland scientist to supervise the implementation of the restoration plan and to submit the restoration progress reports.
5. Implement the restoration plan only after receiving written approval and as conditioned by DES.

6. **Within 60 days**, submit an After-the-Fact Standard Dredge and Fill application to DES if you desire to retain any wetland or surface water impacts. Please note the following issues will need to be addressed in order to retain any of the impacts:

- a. A DES Restoration Plan Approval will need to be issued for the aforementioned Impact Areas #1, #2, #5, and #7 before DES will consider the After-the-Fact application;
- b. A plan showing the wetland delineation boundaries, temporary and permanent wetland impacts including square footage;
- c. Identify when the culvert, fill, and slope impacts work were conducted, why and who conducted the work; and
- d. Demonstrate need, avoidance and minimization has been met for each impact area (i.e., road width and impact areas will need to be reduced to meet current minimum standards).

7. **Within 30 days**, evaluate the potential need for additional DES Site Specific Program Permitting and obtain appropriate permits if necessary.

RSA 482-A, the New Hampshire Wetlands law, was enacted to protect and preserve wetlands and surface waters from unregulated despoliation. Prior to dredging, filling, or construction in and adjacent to wetlands or surface waters, an individual is required to obtain a permit. If work is done without a permit, this is considered a violation of RSA 482-A. Failure to respond to this Letter of Deficiency in a timely and complete manner may be construed as noncompliance by the receiving party.

DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules.

Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.


All documents submitted in response to this Letter of Deficiency should be addressed as follows:

William A. Thomas, CWS
Wetlands Bureau
Department of Environmental Services
29 Hazen Drive
PO Box 95
Concord, NH 03302-0095

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Should you have any questions regarding this letter, or wish to arrange a meeting, please contact either William Thomas at (603) 271-4197 or Tracey Boisvert at (603) 271-4061.

Sincerely,


Collis G. Adams, CWS
Administrator
Wetlands Bureau

CERTIFIED MAIL 7004 2510 0003 1195 8244

cc: Rene Pelletier, Manager, Land Resources Management Program
Gretchen R. Hamel, Administrator, DES Legal Unit ✓
Ana Herrero, DES Site Specific Program
Lyndeborough Conservation Commission
Lyndeborough Board of Selectmen
Armand Poirier
Sara Callaghan, SPNHF